

MONTANA LEGISLATIVE HISTORY

Chapter 563 19 81

Bill H 445 S _____ Original bill & history ☒ C

H. Committee on Human Services

Hearing Date(s) 1-28 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Public Health

Hearing Date(s) 3-25 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HEARING: 2/3
REPORT: DO PASS AS AMENDED, 2/4
2ND READING: 2/6 YEAS: 90; NAYS: 0
3RD READING: 2/9 YEAS: 92; NAYS: 2

TRANSMITTED TO SENATE: 2/9
REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 2/10
HEARING: 3/25, 3/26
REPORT: 3/26, BE CONCURRED IN
2ND READING: 3/27, BE CONCURRED IN
3RD READING: 3/31, YEAS: 50

RETURNED TO HOUSE: 3/31
TRANSMITTED TO GOVERNOR: 4/6
ACTION: SIGNED, 4/9
CHAPTER 312

HB 443—BRAND, MEYER, HEMSTAD, ET AL—TO REQUIRE THE ATTORNEY GENERAL TO PREPARE INSTRUCTIONS ON HOW TO PROBATE A WILL OR SETTLE AN ESTATE, TO PREPARE FORMS NECESSARY TO PROBATE A WILL AND ADMINISTER AN ESTATE, AND TO DISTRIBUTE THE INSTRUCTIONS AND FORMS TO THE PUBLIC.

FISCAL NOTE: REQUIRED
INTRODUCED: 1/23
REFERRED TO COMMITTEE ON JUDICIARY: 1/23
HEARING: 1/30
ON MOTION, 2/2, POSTPONED CONSIDERATION OF ADVERSE COMMITTEE REPORT UNTIL THE 32ND LEGISLATIVE DAY.
REPORT: DO NOT PASS, 1/30
REPORT: ADOPTED, 2/10
BILL KILLED: 2/10 YEAS: 63; NAYS: 18

HB 444—KEEDY--TO PROMOTE FREE AND OPEN COMPETITION AND TO PRESERVE THE FREE-ENTERPRISE MARKET SYSTEM....

FISCAL NOTE: REQUIRED
INTRODUCED: 1/23
REFERRED TO COMMITTEE ON JUDICIARY: 1/23
HEARING: 2/3
REPORT: DO NOT PASS, 2/5
REPORT: ADOPTED, 2/12
BILL KILLED: 2/12 YEAS: 73; NAYS: 23

HB 445—ROTH, HAMMOND, KEYSER, ET AL—TO CREATE A PROCEDURE TO OBTAIN A VARIANCE FROM THE RULES ISSUED PURSUANT TO THE MONTANA SOLID WASTE MANAGEMENT ACT.

INTRODUCED: 1/23
REFERRED TO COMMITTEE ON HUMAN SERVICES: 1/23
HEARING: 1/28
REPORT: DO PASS AS AMENDED, 2/3
2ND READING: 2/6, YEAS: 84; NAYS: 8
3RD READING: 2/11, YEAS: 93; NAYS: 4

TRANSMITTED TO SENATE: 2/11
REFERRED TO COMMITTEE ON PUBLIC HEALTH: 2/12
HEARING: 3/25
REPORT: 3/26, BE CONCURRED IN
2ND READING: 3/27, BE CONCURRED IN
3RD READING: 3/31, YEAS: 50

RETURNED TO HOUSE: 3/31
TRANSMITTED TO GOVERNOR: 4/6

ACTION: AMENDATORY VETO, 4/9

GOVERNOR'S AMENDMENTS

HOUSE 2ND READING: 4/17, YEAS: 87; NAYS: 0
ON MOTION, 4/17, RULES SUSPENDED AND PLACED ON 3RD READING
HOUSE 3RD READING: 4/17, YEAS: 85; NAYS: 7

SENATE 2ND READING: 4/21, BE CONCURRED IN
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
SENATE 3RD READING: 4/21, YEAS: 49; NAYS: 1

TRANSMITTED TO GOVERNOR: 4/23

ACTION: SIGNED, 4/29

CHAPTER 563

HB 446—METCALF—TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH FOR THE PURPOSE OF PURCHASING HAZARDOUS MATERIALS INCIDENT RESPONSE EQUIPMENT AND FOR TRAINING.

INTRODUCED: 1/23

REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/23

HEARING: 3/13

BILL DIED IN COMMITTEE

HB 447—O'HARA, ANDREASON, WINSLOW—PROVIDING ADDITIONAL ALTERNATIVES FOR THE ASSESSMENT OF COSTS FOR IMPROVEMENT DISTRICTS.

INTRODUCED: 1/23

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/23

HEARING: 2/11

REPORT: DO PASS AS AMENDED, 2/13

2ND READING: 2/17, YEAS: 82; NAYS: 4

3RD READING: 2/19, YEAS: 99; NAYS: 1

TRANSMITTED TO SENATE: 2/19

REFERRED TO COMMITTEE ON TAXATION: 2/20

HEARING: 3/13

REPORT: 3/18, ADVERSE REPORT ADOPTED,

YEAS: 48; NAYS: 0

BILL KILLED IN COMMITTEE

HB 448—NORDTVEDT, VINCENT, WALLIN—TO GENERALLY REVISE ASSET, LIABILITY, RESERVE, INTEREST, DEPOSIT, AND INVESTMENT REQUIREMENTS RELATING TO INSURANCE COMPANIES....

INTRODUCED: 1/23

REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/23

HEARING: 2/10

REPORT: DO PASS AS AMENDED, 2/12

2ND READING: 2/17, YEAS: 73; NAYS: 10

3RD READING: 2/19, YEAS: 94; NAYS: 5

TRANSMITTED TO SENATE: 2/19

REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 3/2

HEARING: 3/18

REPORT: 3/26, BE CONCURRED IN, AS AMENDED

2ND READING: 3/28, YEAS: 48; NAYS: 1

3RD READING: 3/31, YEAS: 42; NAYS: 8

RETURNED TO HOUSE WITH AMENDMENTS: 3/31

2ND READING: 4/8, YEAS: 85; NAYS: 2

3RD READING: 4/9, YEAS: 85; NAYS: 12

24 (3) The hearing before the board for a variance shall
25 be held pursuant to the provisions of the Montana

(4) Nothing in this section may be construed as relieving the board from the obligation to comply with the Resource Conservation and Recovery Act of 1976, as amended.

-End-

STATUS SHEET

HUMAN SERVICES COMMITTEE

47th Legislature (1981)

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 439	Concerning payment of fees for certain alcoholism related services and indicating how the dept. will distribute funds generated by the tax on alcoholic beverages.	1/23	Waldron	1/30	DO PASS AS AMENDED	1/30
HB 445	To create a procedure to obtain a variance from the rules issued pursuant to the Montana solid waste management act.	1/23	Roth	1/28	DO PASS AS AMENDED	2/2
HB 458	To repeal the Montana certificate of need requirements for health care facilities.	1/24	Vinger	2/4	DO NOT PASS	2/17
SB 58	To amend Section 20-5-403 MCA, of the school immunization laws to eliminate the exemption based on failure to act.	1/26	VanValkenburg	(TRANSFERRED TO EDUCATION COMM.)		
HB 517	To repeal the law relating to eugenical sterilization and the Board of Eugenics.	1/27	Bardanouve	2/2	DO PASS	2/2
HB 513	To revise and clarify the laws relating to licensing and certificates of need of health care facilities; confidentiality of complaints etc.	1/27	Menahan	2/2	DO NOT PASS	2/17

MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING
January 28, 1981

The Human Services Committee Meeting convened at 12:00 noon on Wednesday, January 28, 1981, in Room 103 in the Capitol, with CHAIRMAN GOULD presiding. All members were present.

HB 445

The hearing on HB 445 was opened by REP. AUDREY ROTH, who sponsored the bill to relieve problems of solid waste disposal, especially problems of small communities. She felt that one law should not encompass every community, as each has individual disposal problems.

PROPONENTS:

HOLLY FRANZ, formerly a legislative assistant to Congressman Ron Marlenee in Washington, D.C., testified that the State Department of Health and Environmental Sciences (DHES), has chosen to use the strict federal guidelines, rather than to consider the needs of the individual community. (EXHIBIT I)

DALE SKAALURE, Chouteau County Commissioner, stated that the Montana law is more stringent than the federal law. Even the "environmental" people feel the state has gone "too far," he said. For an example, he told of the dump situation at Loma. It is open three days a week and is supposed to be covered with six inches of dirt at the end of each day it is open. The county can afford to cover it only once a week as tax money from the road budget must be used. Therefore, the dump doesn't meet state requirements and isn't licensed. Another problem is that dumps in unincorporated towns are sometimes used by residents of larger towns, he said. (EXHIBIT II)

REP. KROPP, of Malta, representing District 5, testified in favor of the bill. BOB ADAMS, a lawyer for DHES feels variances should be granted. He suggested two amendments. Page 1, line 20, insert "on due notice", and the other on page 2, Subsection 4, inserting language stating that a variance would be no less restrictive than imposed by the Federal Resource Conservation and Recovery Act of 1976. (EXHIBIT IV)

SENATOR HAMMOND of District 3 stated that his district has seven small towns with disposal problems and he supports this bill.

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE:

CHAIRMAN GOULD asked why this problem couldn't be handled by county commissioners from each county. DUANE ROBERTSON, Chief of the Solid Waste Management Bureau, stated that the problem could not be handled that way at this time under the present law. He feels a board of review should make the exceptions. REP. BRAND stated that some towns

have let out bids to have one central location to handle disposal and asked why others couldn't do the same.

MR. SKAALURE doesn't feel this would be workable in his community. If a \$15 fee per family were instituted in his county for garbage collection as in other places, there would be new county commissioners elected, he said.

REP. BRAND asked how many common dumps are set up in Montana. BOB ADAMS of DHES answered "about twenty-six." He also felt that the Legislature, by giving money to help counties that needed it, helped solve the problem to some degree .

REP. BARDANOUE asked how far the people of Highwood were hauling garbage.. MR. SKAALURE said an agreement has been made with a solid waste disposal company and a fee is charged, but some people are hauling their own to Great Falls, about 28 miles. But in Loma the people do not want to haul their garbage that far or pay the fee, so the dump is being subsidized by the road fund.

REP. BARDANOUE asked what is the required six inch cover for the dump. REP. SKAALURE said they tried to comply with the state regulations and use a six inch dirt cover, but there's as much dirt in the dump as garbage, and the dump fills up very fast.

REP. SEIFERT asked if septic tank dumping is considered solid waste dumping. He was told yes, by ADAMS. REP. SEIFERT then asked why that dumping was not allowed in a certified dump. He was told by ADAMS that the liquid waste disposal had to be considered on an individual basis, because there was a possibility of water being contaminated. REP. SEIFERT asked if the DHES has made any effort to handle this problem. ADAMS stated that his department is very workable at the present time.

REP. SEIFERT asked what alternative an individual has to dumping in a certified dump. Adams said a septic tank should be dumped on the ground and spread out where the moisture could dry out and not contaminate anything.

REP. SEIFERT asked what was to stop private garbage contractors from dumping in a county's solid waste box, when they are not allowed to dump in the county landfill dump. ADAMS said there really isn't any way to keep that from happening. They should make arrangements to dump at the proper time in the county landfill.

REP. SEIFERT asked if there are cases where the counties are competing with private collectors. ADAMS said the people in the district had a choice.

REP. KEYSER asked why MR. ADAMS felt this bill would weaken the present law, when variances can be granted even now. Adams said that if

variance is granted to a small community to cover their dump only once a week, it's much cheaper for them to operate. A centralized dump in a county is easier for the county to control. Forty yard "Greenboxes" located in various places in the county and picked up at regular intervals, have proved much more economical than operating several small dumps.

REP. NILSON asked if the wording of the bill would mean that personnel from the department would travel to the requesting community to grant variances. MR. ADAMS said that, if the original request is turned down, the request then goes to DHES in Helena.

REP. DEVLIN asked why the hearings were not held in the individual communities. He was told by Mr. ADAMS that the department was complying with the law, and that hearings were held approximately every two months.

REP. BRAND asked why the covering rules were so strigent. Mr. ADAMS said that covering prevents garbage from blowing around, fires from occurring, and rodents from infesting. The surrounding property values must be considered, he said. Final covering on a dump is supposed to be two feet and be done in a special way to prevent contamination.

REP. GOULD asked why the State Board of Health couldn't be scheduled at the location seeking a variance. Mr. ADAMS said it would require more scheduling and would be difficult for his department. There being no more testimony, REP. ROTH closed the hearing on the bill.

HB 419

The hearing on HB 419 was opened by REP. WALDRON who sponsored the bill at the request of the Department of Institutions. Its purpose is to revise and clarify definitions relating to alcoholism and drug dependence.

PROPONENTS:

MIKE MURRY, of the Alcohol and Drug Abuse Division of the Department of Institutions testified in favor of the bill. According to the present law, CARE UNITS of Butte and Missoula are not eligible for state approval as an alcohol program, because they are owned by a corporation, CARE, of California. He feels this bill will rectify the situation by clarifying the definitions.

OPPONENTS:

PHIL STROPE, appeared for the Montana Tavern Association, the organization representing the people that contribute about 60% of this program budget, he said. He felt that this law does more than clarify definitions. He feels that it will remove the requirement that these institutions or agencies be nonprofit. They want to allow profit-motive institutions to be approved. Further, he said, the bill would allow those profit-motive corporations, by the changes on

EXI
1-28-81

Mr. Chairman and members of the committee:

For the record my name is Holly Franz. I am currently employed in the House Steno Pool but prior to my employment here I worked as a legislative assistant to Congressman Ron Marlenee in Washington, D.C. One of my areas of responsibility was solid waste management. This is an area of intense concern to Mr. Marlenee and as a consequence, I became very involved in the subject.

I am familiar with both the federal and state statutes and regulations dealing with solid waste management. One of Montana's, and especially Montana's rural communities, major difficulties has been the broad imposition of inappropriate federal standards. In the case of solid waste, the federal government had the foresight to allow the states some discretion in the operation of sanitary landfills. Unfortunately, the State Department of Health chose to impose strict standards statewide.

Last summer I spoke with many health officials from surrounding states. Several expressed amazement when told that Montana applies a uniform standard statewide with no provisions for varying factors. The majority of these states had some mechanism for variances or differing standards for small towns.

Before I close, allow me to relate a common circumstance. The town of Saco, with less than 500 inhabitants, operates an open dump. They were notified by the Department of Health that they must upgrade their dump. However, under present state requirements, the upgrading of the Saco dump site was economically prohibitive. I am sure you can imagine why a city the size of Saco would have difficulty complying with the same standards that apply to Billings and Helena. Saco decided to ignore the state's order. As a result, not only does Saco now face noncompliance fines but no improvement at all was made to the Saco dump. A variance provision would allow Saco and other towns in a similar situation to petition for a variance and hopefully to fashion sanitary landfill requirements which relate closer to the problem which they are designed to meet.

In these times of tight economics and even in times of not-so-tight economics, it makes no sense to impose overly restrictive standards when the desired results could be achieved through different means. While I wholeheartedly support environmental protection, the level of protection and regulation must be designed to meet the individual situation. Anymore simply ties up limited resources which could otherwise be used to meet other, more pressing demands. I believe Representative Roth's bill, HR 445, is a step toward applying appropriate solutions to our state's problems and I support it and urge your support also.

Proposed Amendments to the Introduced Copy of House Bill 445:

1. Page 1, line 20.

Following: "except after a"

Insert: "public"

2. Page 1, line 20.

Following: "hearing"

Insert: "on due notice"

3. Page 2, lines 2 through 4.

Strike: Subsection (4) in its entirety

Insert: "(4) Under no conditions may a variance be granted by the board that would result in a less stringent requirement or degree of control than would be imposed by the applicable federal regulations adopted under the federal Resource Conservation and Recovery Act of 1976, as amended".

VISITORS' REGISTER

HOUSE Human Services COMMITTEE

COMMITTEE

ALL NB 445

Date 1-28-81

SPONSOR Both

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME DALE SKAALIKE BILL No. 713 445
ADDRESS Big Sandy DATE _____
WHOM DO YOU REPRESENT Chouteau County Farmers - Males
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The MT law is more stringent than the Fedr
It is very difficult to abide with a regulation
that is pointed toward an urban need
The cash and the location has to be accomplished
By local govt. why not more latitude in
implementing & answering the needs of local taxpayers
financially & otherwise.
I don't like the threat - if we don't comply - relating to substitution co.

NAME Bob Adams BILL No. HB 445
ADDRESS Helena, MT DATE 1/28/81
WHOM DO YOU REPRESENT MT DHEC
SUPPORT X OPPOSE AMEND w/ slight amend

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

DHEC supports a variance procedure with the request for slight amendment to insure public hearing on due notice prior to granting a variance; furthermore, DHEC seeks to clarify that nothing less restrictive than the federal Resource Conservation and Recovery Act of 1976 be contained a variance.

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

<u>HOUSE</u> BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 7	1-29	3-6, 11	3-11					3-11	
HB 50	1-20	3-4	3-4				3-4		
HB 62	1-14	2-4	2-4				2-4		
HB 70	1-21	2-4	2-4				2-4		
HB 80	3-2	3-20, 23	3-23				3-23		
HB 91	1-26	3-4, 6	3-6					3-6	
HB 95	1-29	3-1, 13	3-13				3-13		
HB 127	2-9	3-11, 24, 25	3-25					3-25	
HB 152	2-18	PICKED UP	BY JEAN FALLAN	ON 3-14					
HB 167	1-27	3-13, 23	3-23				3-23		
HB 172	2-4	3-11, 13	3-13				3-13		
HB 300	2-4	PICKED UP	BY JEAN FALLAN	ON 2-14					
HB 420	2-13	3-9, 13	3-13						3-13
HB 437	2-9	3-9, 13	3-13				3-13		
HB 439	2-9	3-9, 13	3-13				3-13		
HB 445	2-13	3-25	3-25				3-25		

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 25, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Wednesday, March 25, 1981 at 12:30 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Senators Johnson and Halligan arrived late. Kathleen Harrington, staff researcher, was also present.

Many visitors were in attendance. (see attachments.)

CONSIDERATION OF HOUSE BILL 445: Representative Audrey Roth of District 10, chief sponsor of House Bill 445, gave a brief resume of the bill. This is an act to create a procedure to obtain a variance from rules issued pursuant to the Montana Solid Waste Management Act.

This act creates a procedure to obtain a variance from the rules issued pursuant to the Montana Solid Waste Management Act. This act also provides that anyone who wished to obtain a variance from the Montana Solid Waste Management Act must have a hearing under the Montana Administration Procedure Act. It also states that Board of Health must comply with the Resource Conservation and Recovery Act and may not adopt rules less restrictive than that act.

Duane Robertson from the Solid Waste Management Bureau stood in support of the bill. He stated that many small communities are having trouble with this at the present time.

Holly Franz, representing herself, stood in support of the bill. She stated that the bill is needed to allow small communities flexibility in meeting the state's solid waste regulations.

With no further proponents the meeting was opened to the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Berg asked what kind of variance this would be. Mr. Robertson stated some examples that this would effect.

PUBLIC HEALTH
PAGE TWO
MARCH 25, 1981

Senator Berg asked Representative Roth if most communities comply with the variance. She reported that they do.

With no further questions from the Committee, Representative Roth closed. She read a letter from the residence of Fort Benton encouraging the Committee to pass this piece of legislation.

DISPOSITION OF HOUSE BILL 445:

A motion was made by Senator Olson that House Bill 455 BE CONCURRED IN. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 797: Representative Gary Bennett of District 15, chief sponsor of Housr Bill 797, gave a brief resume of the bill. This bill is an act to authorize the sale by prescription of DMSO.

Section 1, DMSO is exempt from making a new drug application to the Department of Health and Environmental Sciences and under-going qualifications by either the federal government or the state Department of Health.

Section 2 defines DMSO.

Section 3 provides that the manufacture, sale, possession, and distribution of DMSO by prescription is lawful in this state.

Section 4 provides that a hospital may not restrict or forbid the use of DMSO when requested by a patient and prescribed or administered by a physician.

Section 5 provides that no hospital, health care facility, pharmacy or employee may be held liable for administration of DMSO.

Section 6 provides that physicians may not be subject to disciplinary action for prescribing or administering DMSO.

Section 7 provides that the use of DMSO is not endorsed.

Section 8 make the manufacture selling and distribution of DMSO permissive.

This bill is patterned after our present laws on Laetrile.

STANDING COMMITTEE REPORT

MARCH 25, 1981

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration HOUSE

Bill No. 445

ROTH (HAMMOND)

Respectfully report as follows: That HOUSE

Bill No. 445

~~DO PASS~~ BE CONCURRED IN

gq

HOUSE BILL 445

Introduced by Representative Roth.

This act creates a procedure to obtain a variance from the rules issued pursuant to the Montana Solid Waste Management Act.

This act also provides that anyone who wishes to obtain a variance from the Montana Solid Waste Management Act must have a hearing under the Montana Administration Procedure Act. It also states the the Board of Health must comply with the Resource Conservation and Recovery Act and may not adopt rules less restrictive than that act.

NAME: Holly Franz DATE: 3/25/81

ADDRESS: 1226 Laurel #14

PHONE: _____

REPRESENTING WHOM? —

APPEARING ON WHICH PROPOSAL: HB 445

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Bill is needed to allow small communities flexibility in meeting the state's solid waste regulations.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.